UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
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In re:

MERLE AYERS,	Case No. 16-44736
and	Chapter 7
CHRISTINE CANTO-AYERS ***AKA*** **CHRISTINE CANTO** ***AKA*** **CHRISTINE AYERS** ***DBA*** **ALEXA MAR INC. 81-1023818,**	**HON. CARLA E. CRAIG**
Debtors.	

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MOTION FOR RELIEF FROM AUTOMATIC STAY

TO: THE HONORABLE CARLA E. CRAIG
UNITED STATES BANKRUPTCY JUDGE

Secured Creditor, U.S. BANK NATIONAL ASSOCIATION, by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d)(1), for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtors, Merle Ayers and Christine Canto-Ayers (*aka* Christine Canto *aka* Christine Ayers *dba* Alexa Mar Inc. 81-1023818), filed a voluntary petition pursuant to Chapter 7 of the United States Bankruptcy Code on October 20, 2016.

2. On April 18, 2013, Debtors executed and delivered a Promissory Note ("Note") and a Mortgage ("Mortgage") securing payment of the Note in the amount of $468,750.00 to U.S. Bank National Association ND. The Mortgage was recorded on May 13, 2013 as Instrument Number 2013000193159 of the Public Records of Queens County, NY. True and accurate

copies of documents establishing a perfected security interest and ability to enforce the terms of the Note are attached hereto as Composite Exhibit "A." The documents include copies of the Note with any required indorsements, Recorded Mortgage, and any other applicable documentation supporting the right to seek a lift of the automatic stay and foreclose, if necessary.

3. Debtors executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

4. The mortgage provides Secured Creditor a lien on the real property located in Queens County, NY, and legally described as follows:

> ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING AT WHITESONE, THIRD WARD, BOROUGH OF QUEENS, CITY AND STATE OF NEW YORK, KNOWN AND DESIGNATED ON A A CERTAIN MAP ENTITLED, "MAP OF PROPERTY BELONGING TO THE MAURICE RYAN LAND COMPANY, SITUATE AT WHITESTONE, THIRD WARD, BOROUGH AND COUNTY OF QUEENS, CITY AND STATE OF NEW YORK, SURVEYED JULY 1ST, 1915 BY HOMER L. BARLETT, C.S. & C.E.", FILED IN THE OFFICE OF THE CLERK OF THE COUNTY OF QUEENS, ON JANUARY 9TH, 1922, MAP NUMBER 4074, AS AND BY THE LOT NUMBERS NINTEEN (19), TWENTY (20) AND TWENTY-ONE (21).
>
> BEGINNING AT A POINT ON THE SOUTHERLY SIDE OF 22ND AVENUE, FORMERLY 5TH STREET, DISTANT 40 FEET WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHERLY SIDE OF 22ND AVENUE AND THE WESTERLY SIDE OF LEE COURT;
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> THENCE SOUTHERLY AT RIGHT ANGLES TO 22ND AVENUE, 100 FEET;
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> THENCE WESTERLY PARALLEL WITH 22ND AVENUE, 30 FEET;
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> THENCE NORTHERLY AGAIN AT RIGHT ANGLES TO 22ND AVENUE, 100 FEET TO A POINT ON THE SOUTHERLY SIDE OF 22ND AVENUE;

THENCE EASTERLY ALONG THE SOUTHERLY SIDE OF 22ND AVENUE, 30 FEE TO THE POINT OR PLACE OF BEGINNING.

NOTE: ADDRESS, BLOCK & LOT SHOWN FOR INFORMATIONAL PURPOSES ONLY

DESIGNATED AS BLOCK 4635, LOT 22 AND ALSO KNOWN AS 145-20 22ND AVENUE.

This property is located at the street address of: 14520 22nd Avenue, Whitestone, NY 11357.

5. The terms of the aforementioned Note and Mortgage have been in default, and remain in default, as of November 1, 2015. The arrears total $7,869.66. A true and accurate copy of Secured Creditor's statement in regard to indebtedness and default is attached here to as Exhibit "B."

6. As per Secured Creditor's statements in regard to indebtedness and default attached hereto, Secured Creditor is due a total pre-petition and post-petition amount of $441,615.11, as of January 5, 2017.

7. The stated value of the property is $725,000.00. See Exhibit "C" which is attached hereto and permissible as a property valuation under Fed. R. Evid. 803(8). The subject property is also encumbered by an additional lien in the amount of $53,948.37, which is also held by U.S. Bank National Association.

8. Based upon the Debtors' schedules, the property is claimed as exempt. The Trustee has not abandoned the property.

9. Secured Creditor's security interest in the subject property is being significantly jeopardized by Debtors' failure to comply with the terms of the subject loan documents while Secured Creditor is prohibited from pursuing lawful remedies to protect such interest. Secured Creditor has no protection against the erosion of its collateral position and no other form of adequate protection is provided.

10. If Secured Creditor is not permitted to enforce its security interest in the collateral or be provided with adequate protection, it will suffer irreparable injury, loss, and damage.

11. Secured Creditor respectfully requests the Court grant it relief from the Automatic Stay in this case pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Secured Creditor for its interest in the above stated collateral.

12. Once the stay is terminated, the Debtor will have minimal motivation to insure, preserve, or protect the collateral; therefore, Secured Creditor requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).

13. The Trustee shall be notified of any surplus monies realized upon sale of the property in a foreclosure proceeding brought by Secured Creditor.

14. No previous application has been made for the relief request herein**.**

15. A copy of the proposed order is attached hereto as Exhibit “D.”

WHEREFORE, Secured Creditor, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d)(1) to permit Secured Creditor to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, and for any such further relief as this Honorable Court deems just and appropriate.

Dated: February 23, 2017
Westbury, NY

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